



Federal Communications Commission  
Washington, D.C. 20554

June 6, 2017

DA 17-548

Ms. Cindy Hall  
The Alaska Wireless Network, LLC  
2550 Denali Street, Suite 1000  
Anchorage, AK 99503

**RE: Request for Waiver of Section 27.14(g), WT Docket No. 16-402**

Dear Ms. Hall:

The Mobility Division (Division) of the Wireless Telecommunications Bureau (Bureau) hereby grants the request of The Alaska Wireless Network, LLC (AWN) (a wholly-owned subsidiary of GCI Communication Corp.) for a limited waiver of Section 27.14(g) of the Commission's rules.<sup>1</sup> In light of the unique and unusual challenges of serving the State of Alaska, the waiver will allow AWN to meet population- rather than geographic-based construction benchmarks for a Lower 700 MHz A Block license, covering the entire State.<sup>2</sup> Grant of the Waiver Request, subject to the performance and related conditions we adopt below, will promote the underlying purpose of Section 27.14(g) and serve the public interest by fostering AWN's rapid provision of new and advanced wireless services to Alaskans, including those living in remote areas of the State, where competition and choice of available services is often limited.<sup>3</sup>

*Background.* In the *700 MHz Second Report and Order*, the Commission adopted interim and end-of-license term construction benchmarks for certain 700 MHz band licensees.<sup>4</sup> The Commission required Lower 700 MHz band A and B Block licensees to provide signal coverage and offer service over at least 35 percent of their license area by June 13, 2013,<sup>5</sup> later extended to December 13, 2016<sup>6</sup> (Interim Construction Requirement), and to provide signal coverage and offer service over at least 70 percent of that area by the end of their initial 10-year license term, here June 13, 2019 (Final Construction Requirement).<sup>7</sup> Section 27.14(g)(1) provides that if a licensee does not satisfy the Interim Construction Requirement, its license term will be reduced by two years, thereby requiring it to meet the Final Construction Requirement two years sooner.<sup>8</sup> Further, if a licensee does not meet its Final Construction

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<sup>1</sup> Petition of General Communication, Inc. for Waiver of Lower 700 MHz Build-Out Requirements, ULS File No. 0007582863 (filed Dec. 7, 2016), citing 47 CFR § 27.14(g) (Waiver Request). *See also* Reply Comments of General Communication, Inc., filed Jan. 13, 2017 (AWN Reply).

<sup>2</sup> The license call sign is WQJU656 (Basic Economic Area (BEA) 171 – Anchorage, AK) (the License).

<sup>3</sup> *See* Waiver Request at 4; AWN Reply at 7.

<sup>4</sup> *See Service Rules for 698-746, 747-762, and 777-792 MHz Bands*, Second Report and Order, 22 FCC Rcd 15289 (2007) (*700 MHz Second Report and Order*), *on recons.*, *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, Memorandum Opinion and Order on Reconsideration, 28 FCC Rcd 2671 (2013) (*700 MHz Reconsideration Order*).

<sup>5</sup> *See* 47 CFR § 27.14(g).

<sup>6</sup> *See Promoting Interoperability in the 700 MHz Commercial Spectrum*, Report and Order and Order of Proposed Modification, 28 FCC Rcd 15122, 15151-52, para. 65 (2013) (*Interoperability Order*) (subsequent history omitted).

<sup>7</sup> *See* 47 CFR § 27.14(g); *700 MHz Second Report and Order*, 22 FCC Rcd at 15293-94, 15349, paras. 6, 157.

<sup>8</sup> 47 CFR § 27.14(g)(1).

Requirement, it will be subject to a “keep-what-you-serve” rule, whereby its “authorization will terminate automatically without Commission action for those geographic portions of its license in which the licensee is not providing service, and those unserved areas will become available for reassignment by the Commission.”<sup>9</sup>

AWN filed the Waiver Request on December 7, 2016, proposing to satisfy the following construction benchmarks:

- By December 13, 2016, provide coverage and offer service to 50 percent of Alaska’s population.<sup>10</sup>
- By June 13, 2019, provide coverage and offer service to 80 percent of Alaska’s population.<sup>11</sup> If AWN fails to meet this benchmark, it would lose authorization to serve all geographic areas of Alaska that it did not serve by June 13, 2017.<sup>12</sup>

AWN has committed to maintaining coverage and offering service to at least 80 percent of Alaska’s population for five years beginning June 13, 2019,<sup>13</sup> and proposes that if it fails to do so, it would lose authorization to serve all geographic areas of Alaska that it was not able to serve by June 13, 2017 (the accelerated end-of-license term absent a waiver of Section 27.14(g)).<sup>14</sup> AWN further states that during any license renewal term, it would negotiate in good faith with any third party seeking to lease spectrum in an area not served by AWN.<sup>15</sup>

The Waiver Request appeared on public notice for comment on December 12, 2016.<sup>16</sup> AT&T Services, Inc. (AT&T) and King Street Wireless, L.P. (King Street) support AWN’s Waiver Request.<sup>17</sup> AT&T states that Alaska’s unique conditions, geography, and demographics make geographic construction benchmarks in Alaska impractical and unduly burdensome, and that forcing AWN to adhere to Section 27.14(g)’s geographic benchmarks “would just delay rural build-out and frustrate the purpose of the build-out rules.”<sup>18</sup> King Street states that, although it has met the Interim Construction Requirement for its 152 Lower 700 MHz A and B Block licenses, “it recognizes that in certain circumstances, strict compliance with construction obligations simply may not serve the public interest and/or are not practical . . . .”<sup>19</sup> Citing the “extreme circumstances such as exists in Alaska,” King Street states that the proposed “construction relief appears to be warranted.”<sup>20</sup> One commenter, the Rural

<sup>9</sup> 47 CFR § 27.14(g)(2). *See also* 700 MHz Second Report and Order, 22 FCC Rcd at 15348, para. 153.

<sup>10</sup> Waiver Request at 8.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.* at 8.

<sup>15</sup> *Id.* AWN states that “[g]ood faith negotiations would include, among other things and by way of example only, terms providing for reasonable market-based lease rates, term periods, and build requirements similar to those proposed in this docket and in Commission Rule Section 27.14(g).” *Id.* at 8-9. *See also* AWN Reply at 6.

<sup>16</sup> *See Wireless Telecommunications Bureau Seeks Comment on Alaska Wireless Network Request for Waiver of Geographic Coverage Requirement for 700 MHz License in Alaska*, Public Notice, 31 FCC Rcd 13137 (WTB 2016).

<sup>17</sup> *See* Comments of AT&T, filed Jan. 3, 2017 (AT&T Comments); Reply Comments of King Street Wireless, L.P., filed Jan. 13, 2017 (King Street Reply).

<sup>18</sup> AT&T Comments at 1-2.

<sup>19</sup> King Street Reply at 1.

<sup>20</sup> *Id.* at 2.

Wireless Association, Inc. (RWA), opposes the Waiver Request, asserting that a waiver grant “would incent licensees to ignore their buildout obligations”<sup>21</sup> and that no unique or special circumstances exist in Alaska warranting the requested relief.<sup>22</sup> In reply, AWN states that it is best positioned to “introduce[] competitive services to the vast majority of Alaskans, including consumers in numerous rural areas,”<sup>23</sup> and that “RWA does not dispute that [AWN] is working hard to build out its license in Alaska.”<sup>24</sup>

*Discussion.* As with other Commission rules, requests to waive a requirement of the wireless construction and coverage rules must “meet a high hurdle at the starting gate.”<sup>25</sup> Under the Commission’s general standard for considering waiver requests, we may grant such a request when: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and a grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>26</sup> While each case must be determined in light of its specific circumstances, the Commission’s construction requirements are intended to ensure intensive use of valuable spectrum.<sup>27</sup> Waiver of those requirements is infrequent, and it is only appropriate when consistent with that goal and the public interest.<sup>28</sup>

We have carefully reviewed the record before us and find that the fundamental underlying purpose of Section 27.14(g)—“to better promote access to spectrum and the provision of service, especially in rural areas”<sup>29</sup>—would be frustrated by application of the rule here, and that grant of the requested waiver, subject to the performance and related conditions we adopt below, will serve the public interest. We also find that in view of the unique challenges of serving Alaska—including, as detailed further below, its daunting climate and geography, and widely dispersed population—strict application of Section 27.14(g) here would be contrary to the public interest.

RWA argues that granting a waiver of Section 27.14(g)’s geographic-based construction benchmarks in favor of the population-based construction benchmarks requested by AWN would not serve the public interest.<sup>30</sup> It claims that the extreme weather conditions and low population densities of Alaska do not warrant waiver relief.<sup>31</sup> It also argues that if spectrum under Call Sign WQJU656 were returned to the Commission under Section 27.14(g)(2), unspecified RWA members would apply for portions of the returned spectrum and satisfy the applicable buildout requirements.<sup>32</sup> RWA further argues that a waiver grant could foster “spectrum warehousing,” noting that AWN acquired the License six

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<sup>21</sup> Comments of the Rural Wireless Association, Inc., filed Jan. 3, 2017, at 3 (RWA Comments).

<sup>22</sup> See *id.* at 6.

<sup>23</sup> AWN Reply at 6.

<sup>24</sup> *Id.* at 2.

<sup>25</sup> See *WAIT Radio v. FCC*, 459 F.2d 1203, 1207 (D.C. Cir. 1972).

<sup>26</sup> 47 CFR § 1.925(b)(3).

<sup>27</sup> See 47 U.S.C. § 309(j)(3)(D). Cf. *id.* § 309(j)(4)(B).

<sup>28</sup> See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (1972), *cert. denied*, 93 S. Ct. 461 (1972).

<sup>29</sup> 700 MHz *Second Report and Order*, 22 FCC Rcd at 15348, para. 153. The Commission also stated that Section 27.14(g)’s performance requirements “will provide all licensees with incentives to serve more rural communities” and “are the most effective way to promote rapid service to the public, especially in rural areas.” 700 MHz *Second Report and Order*, 22 FCC Rcd at 15349, para. 155.

<sup>30</sup> See RWA Comments at 4.

<sup>31</sup> See *id.* at 6.

<sup>32</sup> See *id.*

months before the December 13, 2016, interim construction deadline.<sup>33</sup> Finally, RWA claims that the Waiver Request does not meet the requirements for an extension of time to construct a license under Section 1.946(e) of the Commission's rules.<sup>34</sup> As explained below, we find that the public interest would be served by granting AWN's Waiver Request pursuant to Section 1.925 of the Commission's rules, and we note that we are not acting under Section 1.946(e) today.

The Division recently granted a request of AT&T for similar waiver relief regarding deployment in Alaska, enabling AT&T to meet population- rather than geographic-based construction benchmarks for a Lower 700 MHz B Block license, which covers nearly half of Alaska.<sup>35</sup> The Division, citing the unique challenges of serving Alaska,<sup>36</sup> found a waiver would "serve the public interest by fostering AT&T's provision of new and advanced wireless services to citizens in the interior and northern reaches of Alaska."<sup>37</sup> For like reasons, we grant similar relief to AWN today regarding its Lower 700 MHz A Block license, which covers all of Alaska.

Although, as a general matter, we observe that it is a licensee's responsibility to confirm that it can satisfy construction and service requirements in advance of acquiring spectrum,<sup>38</sup> the Commission anticipated that the type of waiver that AWN seeks here might be necessary in certain factual circumstances. Specifically, in the *700 MHz Reconsideration Order*, the Commission explained that "[f]or specific cases of hardship . . . providers can seek waiver relief" related to their construction obligations.<sup>39</sup> The Commission explained that "requests must be well founded and not based solely on grounds of low population density," and it directed staff to "consider these types of requests on a case-by-case basis."<sup>40</sup> In this specific instance, we find that the many unique and unusual circumstances for which AWN must account to serve the entire state of Alaska make it impracticable to meet the applicable geographic construction requirements under Section 27.14(g) and warrant waiver relief.<sup>41</sup>

The unique challenges of bringing widespread service to Alaska are not present in any other state. The Commission has found that carriers in Alaska face unique conditions due to "its remoteness, lack of roads, challenges and costs associated with transporting fuel, lack of scalability per community, satellite and backhaul availability, extreme weather conditions, challenging topography, and short construction season."<sup>42</sup> Alaska is a land of atypical geography, with hundreds of islands, many undeveloped; vast

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<sup>33</sup> See *id.* at 3-4.

<sup>34</sup> See *id.* at 7, citing 47 CFR § 1.946(e).

<sup>35</sup> See *AT&T Request for Waiver of Section 27.14(g)*, Letter Order, 32 FCC Rcd 512 (WTB Mobility Div. Jan. 18, 2017) (*AT&T Waiver Order*). Application for Review of the Rural Wireless Association, Inc., WT Docket No. 16-335 (filed Feb. 17, 2017) (pending). The AT&T Waiver applied to a Lower 700 MHz B Block license in Alaska Cellular Market Area 315.

<sup>36</sup> See *AT&T Waiver Order*, 32 FCC Rcd at 514-515 (noting Alaska's vast size, lack of backhaul and other infrastructure, its sparse population distribution, and difficult geographic and weather conditions (temperatures often fall below zero for long periods during the winter months in much of the license area)).

<sup>37</sup> *AT&T Waiver Order*, 32 FCC Rcd at 512.

<sup>38</sup> See *Auction of 700 MHz Band Licenses Scheduled for January 24, 2008*, Public Notice, 22 FCC Rcd 18141, 18155-57, paras. 39-47 (WTB 2007).

<sup>39</sup> *700 MHz Reconsideration Order*, 28 FCC Rcd at 2674, para. 6.

<sup>40</sup> *700 MHz Reconsideration Order*, 28 FCC Rcd at 2675, para. 9.

<sup>41</sup> See Waiver Request at 5.

<sup>42</sup> *Connect America Fund; Universal Service Reform – Mobility Fund; Connect America Fund - Alaska Plan*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139, 10162, para. 72 (2016) (*Alaska Plan*) (citing *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd (continued...))

mountain ranges, including America's highest peak, Denali; and extreme weather.<sup>43</sup> Alaska's mean winter temperature is 4° F;<sup>44</sup> in the north, it is -13° F, and certain parts average -20 to -30° F.<sup>45</sup> Travel in Alaska can be extraordinarily difficult: many areas can only be reached by aircraft,<sup>46</sup> and others only by Alaska's famed ice roads in the winter months.<sup>47</sup>

In addition to the unique factors described above, the far-flung distribution of Alaska's population across great expanses of unforgiving lands adds to the complexity of bringing new wireless services to its citizens. Alaska comprises 663,209 square miles and is more than twice the size of Texas,<sup>48</sup> yet it has less than three percent of Texas' population, and a population density of just 1.2 persons per square mile.<sup>49</sup> Additionally, the Commission defines a "rural" county as one with a population density of 100 persons per square mile or less.<sup>50</sup> Twenty-eight of Alaska's 29 boroughs and census areas (the equivalent of counties for statistical purposes)<sup>51</sup> are rural, and 15 have a population density of less than half a person per square mile.<sup>52</sup>

We concur with AWN that without the requested waiver relief, it would lose authorization to serve most of the License area at the June 13, 2017, accelerated end-of-license term construction deadline, which would impede its ability to expand to other areas of Alaska in need of new service.<sup>53</sup> AWN states that absent a waiver, it would be forced "to cover *entirely unpopulated* areas that are larger than many

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17663, 17829, para. 507 (2011) (*USF/ICC Transformation Order*), *aff'd sub nom. FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014)).

<sup>43</sup> See Western Regional Climate Center, Climate of Alaska, <http://www.wrcc.dri.edu/narratives/ALASKA.htm>; National Park Service, Denali, <https://www.nps.gov/dena/index.htm>.

<sup>44</sup> See National Oceanic and Atmospheric Administration, Climate at a Glance, <https://www.ncdc.noaa.gov/cag/>. See also See Western Regional Climate Center, Climate of Alaska, <http://www.wrcc.dri.edu/narratives/ALASKA.htm>.

<sup>45</sup> See National Oceanic and Atmospheric Administration, Climate at a Glance, <https://www.ncdc.noaa.gov/cag/>. See also See Western Regional Climate Center, Climate of Alaska, <http://www.wrcc.dri.edu/narratives/ALASKA.htm>; University of California Museum of Paleontology, The Tundra Biome, <http://www.ucmp.berkeley.edu/exhibits/biomes/tundra.php#arctic>.

<sup>46</sup> See Alaska Public Lands Information Center, Statewide FAQs, [https://www.alaskacenters.gov/faqs.cfm#CP\\_JUMP\\_15483](https://www.alaskacenters.gov/faqs.cfm#CP_JUMP_15483); State of Alaska, Transportation, <http://alaska.gov/kids/learn/transportation.htm>.

<sup>47</sup> See National Oceanic and Atmospheric Administration, Pacific Marine Environmental Laboratory, Land – Roads, <http://www.pmel.noaa.gov/arctic-zone/detect/land-road.shtml?page=land>.

<sup>48</sup> Texas comprises more than 268,585 square miles. See FCC's Geographic Information Systems Database, <https://www.fcc.gov/general/geographic-information-systems> (FCC GIS Database). See also U.S. Census Bureau, Guide to State and Local Census Geography - Selected Data from the 2010 Census, [https://www.census.gov/geo/reference/guidestloc/select\\_data.html](https://www.census.gov/geo/reference/guidestloc/select_data.html) (2010 State and Local Census Guide).

<sup>49</sup> See Waiver Request at 5; 2010 State and Local Census Guide; U.S. Census Bureau, 2010 Census of Population and Housing, Population and Housing Unit Counts, Alaska: 2010 (June 2012), at 7, <https://www.census.gov/prod/cen2010/cph-2-3.pdf> (Alaska Population Counts).

<sup>50</sup> *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services*, Report and Order and Further Notice of Proposed Rule Making, 19 FCC Rcd 19078, 19087, para. 11 (WTB 2004).

<sup>51</sup> See U.S. Census Bureau, Alaska Boroughs and Census Areas, <http://live.laborstats.alaska.gov/pop/estimates/pub/chap2.pdf>.

<sup>52</sup> See Alaska Population Counts at 7.

<sup>53</sup> See Waiver Request at 4, 7.

U.S. states” at great expense simply to meet the geographic construction benchmarks.<sup>54</sup> In the foregoing circumstances, we do not believe the public interest is served by rigid application of geographic-based as opposed to population-based construction benchmarks, where doing so would require construction of vast unpopulated areas of Alaska simply to meet the benchmarks.

Rather, we find that this case fits within the ambit of “specific cases of hardship” envisioned by the Commission in the *700 MHz Reconsideration Order* as potential grounds for waiving construction requirements based on geographic benchmarks.<sup>55</sup> We thus agree with AWN that the public interest would be better served by applying population-based construction benchmarks thereby affording AWN the needed flexibility to “cover remote areas more effectively, especially in underserved and rural communities where . . . national carriers do not have service.”<sup>56</sup> Additionally, we note that the Commission in the *700 MHz Second Report and Order* found that population-based benchmarks are appropriate to ensure intensive spectrum use for large Regional Economic Area Grouping (REAG)-based commercial 700 MHz licenses;<sup>57</sup> AWN’s license, BEA171, is the same size as REAG7, which also covers the entire state,<sup>58</sup> and in fact is larger in area than nine of the 12 REAG license areas.<sup>59</sup> The Commission’s finding in the 700 MHz proceeding that population-based benchmarks are well suited to larger areas confirms that granting a waiver in the specific circumstances here is consistent with the Commission’s objective of ensuring intensive spectrum use.

We disagree with RWA that permitting AWN to meet an 80 percent end-of-term population construction benchmark would undermine the fundamental purpose of Section 27.14(g)—namely, as RWA itself acknowledges, to ensure widespread deployment including in “particularly rural areas, and *not* just the most populated portions of a license area.”<sup>60</sup> AWN is not limiting its deployment to densely populated areas as RWA suggests. Nor can it. As AWN notes, “[l]ess than half of Alaskans live in urban areas,” and “its commitment to cover 80 [percent] of Alaska’s population requires large-scale rural deployment.”<sup>61</sup> According to recent census data, AWN would have to serve all 149 incorporated cities in Alaska—90 of which have less than 500 persons (and 21 of which have less than 100 persons)—to reach 68.8 percent of the State’s population.<sup>62</sup>

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<sup>54</sup> AWN Reply at 1 (emphasis in original).

<sup>55</sup> *700 MHz Reconsideration Order*, 28 FCC Rcd at 2674, para. 6.

<sup>56</sup> Waiver Request at 3.

<sup>57</sup> *700 MHz Second Report and Order*, 22 FCC Rcd 15289, 15351, para. 164 (“With regard to the use of population-based benchmarks for REAG licensees, . . . this type of build-out requirement is appropriate for licensees with large geographic areas to allow for roll out of advanced services on a nationwide or regional basis”). See also 47 CFR § 27.14(h) (Upper 700 MHz C Block licensees are required to provide reliable service sufficient to cover 40 percent of the population of their license areas within four years and 75 percent of the population within ten years). The Commission made clear that its geographic-based rules were intended for “smaller geographic service areas.” *700 MHz Second Report and Order*, 22 FCC Rcd 15289, 15348-49, para. 155.

<sup>58</sup> See Waiver Request at 9-10. The Upper 700 MHz C Block license for REAG7 covers the state of Alaska. See FCC, Auctions, Maps, <http://wireless.fcc.gov/auctions/data/maps/REAG.pdf> (REAG Map); ULS, Call Sign WQJU651.

<sup>59</sup> See REAG Map.

<sup>60</sup> RWA Comments at 4 (emphasis in original).

<sup>61</sup> AWN Reply at 1-2.

<sup>62</sup> See U.S. Census Bureau, Population Division, Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2015, (release date May 2016), <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

AWN also committed in the *Alaska Plan* proceeding to bring new LTE service to more than 100,000 Alaskans living in “remote areas”<sup>63</sup> that are otherwise largely without LTE coverage.<sup>64</sup> AWN’s commitment demonstrates that it will use its 700 MHz spectrum to provide this new LTE service,<sup>65</sup> and AWN states in its Waiver Request that “[a]cquiring the 700 MHz license in June 2016 provided [AWN] with an important tool to advance its effort to bring wireless service to remote areas of Alaska.”<sup>66</sup> Further, AWN’s public coverage map<sup>67</sup> shows that AWN already is serving sparsely-populated areas such as the Bethel Census Area, which has a population density of just 0.4 persons per square mile.<sup>68</sup> Within the Bethel Census Area, for example, AWN is providing 3G or better service to Napakiak City, with a population of just 354 people, and Akiak City, with just 346 people.<sup>69</sup>

We also note that by covering 80 percent of Alaska’s population, AWN would be serving a benchmark 10 percentage points higher than the 70 percent population benchmark for the Lower 700 MHz E Block,<sup>70</sup> five percentage points higher than the 75 percent population benchmark for the Upper 700 MHz C Block,<sup>71</sup> and would meet a higher population-based benchmark than required in any other commercial wireless service.<sup>72</sup>

In sum, the record thus shows not only that AWN’s service area involves unique size, topography, weather, and other challenges but also that AWN’s proposed deployment to serve 80 percent of the State’s population would bring new wireless services to Alaskans living in small towns and rural areas, including some in sparsely populated areas that may not receive new services absent the requested waiver.

The record moreover does not support RWA’s claim that granting AWN waiver relief would promote spectrum warehousing.<sup>73</sup> To the contrary, Commission records indicate that it has already deployed new 700 MHz coverage in portions of Anchorage, Eagle River, the Matanuska-Susitna Valley,

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<sup>63</sup> “Remote areas” in Alaska are all areas of Alaska “other than the study areas, or portions thereof, that include the three major cities in Alaska with over 30,000 in population, Anchorage, Juneau, and Fairbanks.” *Alaska Plan*, 31 FCC Rcd at 10160, para. 68 (citing *USF/ICC Transformation Order*, 26 FCC Rcd at 17835, para. 529 n.876, 17834, para. 526 n.872; 47 C.F.R. § 54.307(e)(3)(i)).

<sup>64</sup> See 47 CFR § 54.317(e) (providing that support may be used only to provide mobile service in remote areas that did not, as of Dec. 31, 2014, receive 4G LTE service covering at least 85 percent of the population of the block from providers that are either unsubsidized or subject to phase out of support); *WTB Approves Performance Plans of the Eight Wireless Providers That Elected To Participate in the Alaska Plan*, Public Notice, 31 FCC Rcd 13317, 13322 (WTB 2016) (*Alaska Plan Commitments Public Notice*).

<sup>65</sup> *Alaska Plan Commitments Public Notice*, 31 FCC Rcd at 13322.

<sup>66</sup> Waiver Request at 4.

<sup>67</sup> General Communication, Inc, Coverage Map, <http://gci.cellmaps.com/>.

<sup>68</sup> See Alaska Population Counts at 7.

<sup>69</sup> See U.S. Census Bureau, American Factfinder, Community Facts, [https://factfinder.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml?src=bkmk#](https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmk#)

<sup>70</sup> See 47 CFR § 27.14(h).

<sup>71</sup> See *Interoperability Order*, 28 FCC Rcd at 15148, para. 57 (all active Lower 700 MHz band E Block licensees may meet their interim construction benchmark by providing signal coverage and offering service to at least 40 percent of its total E Block population and may meet their end-of-term construction benchmark by providing signal coverage to at least 70 percent of the population in each of its license areas).

<sup>72</sup> See, e.g., 47 CFR §§ 24.203 (PCS), 27.14(s) (AWS-1).

<sup>73</sup> RWA Comments at 3-4.

Kenai-Soldotna, and the remote Prudhoe Bay Oilfield.<sup>74</sup> Further, AWN states that it “currently has projects underway . . . in Fairbanks, Juneau, Kodiak, Ketchikan, Girdwood, Nome, Sitka, Wrangell, and the Kenai Peninsula.”<sup>75</sup>

Section 309 of the Act directs the Commission to ensure “the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas.”<sup>76</sup> Consistent with that mandate and in light of the unique challenges of deploying wireless service in Alaska, we find that a limited waiver of Section 27.14(g)—subject to the conditions specified below—will serve the public interest by fostering the provision of new wireless services to Alaskans. We find that absent a waiver, the unique geography and climate of Alaska could impede the timely provision of new wireless services to its citizens, especially those residing in remote areas, frustrating Section 27.14(g)’s core purpose of promoting spectrum access and service, particularly in rural areas. That said, we adopt stringent performance benchmarks and certain conditions in this grant to ensure that, consistent with Section 309 and Section 27.14(g)’s purposes, AWN delivers new services to rural and remote communities throughout Alaska. Additionally, AWN’s commitment to negotiate in good faith with any third party seeking to lease spectrum in an area AWN does not serve, which we have included as a waiver condition, will ensure other providers have spectrum access in unserved areas.

Accordingly, we hereby grant AWN’s request for a waiver of Section 27.14(g) as conditioned below.

*Coverage Benchmarks and Waiver Conditions.* To ensure that the benefits of the waiver relief are realized by Alaska’s citizens, including those in isolated areas of the state, we require AWN to satisfy certain coverage benchmarks and other conditions. If AWN fails to meet any benchmark or satisfy any condition, it will (unless specified otherwise) be subject to Section 27.14(g)(2)’s “keep-what-you-serve” rule, as it would have applied as of June 13, 2017 (the accelerated end-of-license term absent a waiver of Section 27.14(g)).<sup>77</sup>

1. *50 Percent Population Coverage Benchmark.* The waiver relief described in this Order is effective only if AWN provided signal coverage and offered service to at least 50 percent of Alaska’s population by December 13, 2016.<sup>78</sup> If AWN failed to meet this initial benchmark, its license term will be reduced by two years, to June 13, 2017, and its authorization will automatically terminate, without Commission action, for those geographic portions of the License area in which AWN is not providing service by June 13, 2017, and those unserved areas will become available for reassignment by the Commission.
2. *80 Percent Population Coverage Benchmark.* By June 13, 2019, AWN must provide signal coverage and offer service to at least 80 percent of BEA117’s population.<sup>79</sup> If AWN fails to meet this benchmark, its authorization will automatically terminate,

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<sup>74</sup> See The Alaska Wireless Network, LLC, Required Notification for Call Sign WQJU656, ULS File No. 0007601845 (filed Dec. 24, 2016) (AWN NT). See also Waiver Request at 5-6; AWN Coverage Map.

<sup>75</sup> Waiver Request at 6.

<sup>76</sup> 47 U.S.C. § 309(j).

<sup>77</sup> See 700 MHz *Second Report and Order*, 22 FCC Rcd at 15348, 15349, para. 153; 47 CFR § 27.14(g)(2).

<sup>78</sup> AWN has filed a notification of construction stating that it has exceeded this benchmark by covering more than 54 percent of the State’s population. See File No. 0007601845, Public Notice, *Wireless Telecommunications Bureau Market-Based Applications Accepted for Filing*, Report Number: 11963 (Jan. 4, 2017). AWN’s showing is under review.

<sup>79</sup> AWN must file a notification of construction demonstrating that it has met this benchmark. See 47 CFR 1.946(d).



without Commission action, for those geographic portions of the License area in which AWN was not providing service by June 13, 2017, and those unserved areas will become available for reassignment by the Commission.<sup>80</sup> In addition, so that the Bureau may determine AWN's served geographic portion as of June 13, 2017, AWN must file with the Bureau a showing demonstrating its geographic coverage area within 15 days of June 13, 2017.

3. *Continuity of Coverage.* AWN must maintain coverage and service to at least 80 percent of BEA117's population for a minimum of five years, commencing June 13, 2019 (that is, until at least June 13, 2024). However, AWN may reduce coverage and service to less than 80 percent of BEA117's population for up to 180 days to accommodate circumstances such as a substantial technology upgrade or recovery from a natural or manmade catastrophe. If AWN violates this condition, it must provide written notice to the Commission, and its authorization will automatically terminate, without Commission action, for those geographic portions of the License area in which AWN was not providing service by June 13, 2017, and those areas will become available for reassignment by the Commission.
4. *Good Faith Negotiations.* During the remainder of the current license term and any subsequent license terms, AWN must negotiate in good faith with any third party seeking to acquire or lease spectrum in a geographic area of BEA117 not served by AWN.<sup>81</sup> If the Bureau finds that AWN failed to negotiate in good faith, its authorization will automatically terminate, without Commission action, for that relevant geographic area of the License subject to the negotiation, and that unserved area will become available for reassignment by the Commission.

Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and Section 1.925(b)(3) of the Commission's rules, 47 CFR § 1.925(b)(3), the request for waiver of Section 27.14(g) of the Commission's rules, 47 CFR § 27.14(g), filed December 7, 2016, by General Communication, Inc., on behalf of The Alaska Wireless Network, LLC, ULS File No. 0007582863, is HEREBY CONDITIONALLY GRANTED TO THE EXTENT PROVIDED ABOVE AND OTHERWISE DENIED.

These actions are taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's rules, 47 CFR §§ 0.131, 0.331.

Sincerely,

Roger S. Noel  
Chief, Mobility Division  
Wireless Telecommunications Bureau

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<sup>80</sup> See 47 CFR § 27.14(g)(2).

<sup>81</sup> This waiver relief will not automatically transfer if AWN seeks to assign, partition, or disaggregate spectrum under the License to a third party. Rather, the third party must demonstrate that the waiver relief should transfer, and the Bureau may, in its discretion, grant, modify, or reject such relief. We note that while AWN committed to negotiate in good faith only during a license renewal term (Waiver Request at 2, AWN Reply at 6), we are requiring it to do so during the current license term as well. By way of example, good faith negotiations require, among other things, reasonable, market-based rates.